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**MAILED**  
**SEP 28 2012**  
**OFFICE OF PETITIONS**

In re Patent No. 6,115,507 :  
Issue Date: 5 September, 2000 :  
Application No. 09/076,670 : **DECISION ON PETITION**  
Filed/Deposited: 12 May, 1998 :  
Attorney Docket No. 250839-2030 :

This is a decision on the petition filed on filed on 29 August, 2012, requesting issuance of duplicate Letters Patent for the above-identified patent/application and considered pursuant to 37 C.F.R. §1.182.<sup>1</sup>

The petition is **GRANTED**.

**BACKGROUND**

Petitioner has made demand upon the Office to issue duplicate Letters Patent in the instant matter.

Petitioner made statement as to the reason for the request a showing consistent with, for example, the guidance in the Commentary at MPEP §711.03(c)(I).<sup>2</sup>

<sup>1</sup> The regulations at 37 C.F.R. §1.182 provide:

**§ 1.182 Questions not specifically provided for.**

All situations not specifically provided for in the regulations of this part will be decided in accordance with the merits of each situation by or under the authority of the Commissioner, subject to such other requirements as may be imposed, and such decision will be communicated to the interested parties in writing. Any petition seeking a decision under this section must be accompanied by the petition fee set forth in §1.17(h).

[47 Fed. Reg. 41278, Sept. 17, 1982, effective date Oct. 1, 1982; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997]

<sup>2</sup> The guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part as to nonreceipt:

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The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

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However, Petitioner authorized fees required pursuant to the Rule.<sup>3</sup>

The Publishing Division is directed to issue duplicate Letters Patent.

A copy of this decision is being forwarded to Publishing Division for issuance of duplicate Letters Patent.

The file is being released to the IFW Repository.

Any questions regarding the issuance of the duplicate Letters Patent should be directed to Ollie Person- Office of Data Management FAX: 571-270-9764, or Kimberly Terrell - Office data Management FAX: 571-270-9958

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Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.


A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

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<sup>3</sup> The regulations at 37 C.F.R. §1.182.

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While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2<sup>4</sup>) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s)/inaction.



/John J. Gillon, Jr./  
John J. Gillon, Jr.  
Senior Attorney  
Office of Petitions

CC:  
Kimberly Terrell - Office data Management FAX: 571-270-9958

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<sup>4</sup> The regulations at 37 C.F.R. §1.2 provide:

**§1.2 Business to be transacted in writing.**

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.